Before the Administrative Hearing Commission State of Missouri



DAVID MARLETTE, JR.,)	
Petitioner,)	
VS.)	No. 13-1203 RV
DIRECTOR OF REVENUE,)	
Respondent.)	

DECISION

We dismiss the complaint filed by David Marlette, Jr., because we lack jurisdiction to hear it.

Procedure

On July 2, 2013, Marlette filed a complaint appealing a final decision issued by the Director of Revenue ("Director") denying a refund of motor vehicle tax. On August 6, 2013, the Director filed a motion for summary decision. We will grant the motion if the Director establishes facts that entitle him to a favorable decision and Marlette does not dispute those facts. We gave Marlette until August 21, 2013 to respond to the motion. Marlette did not file a response.

¹Regulation 1 CSR 15-446(6)(A).

Findings of Fact

1. On March 18, 2013, the Director mailed to Marlette a final decision denying a

refund of sales tax and use tax paid on a motor vehicle.

2. On July 2, 2013, Marlette filed his complaint with this Commission appealing the

Director's final decision.

3. July 2, 2013 was more than 60 days after March 18, 2013.

Conclusions of Law

Section 621.050.1² gives us jurisdiction over an appeal of "any finding, order, decision,

assessment or additional assessment made by the director of revenue." However, § 144.261

requires that an appeal of the Director's final decision be filed with this Commission within 60

days after the mailing or delivery of such decision, whichever is earlier. Marlette filed his appeal

with this Commission more than 60 days after the Director's mailing of his final decision.

Therefore, we have no jurisdiction over Marlette's complaint. If we have no jurisdiction to hear

the complaint, we cannot reach the merits of the case and can only exercise our inherent power to

dismiss.³

Summary

We grant the Director's motion for summary decision and dismiss Marlette's complaint

because we lack jurisdiction to hear it.

SO ORDERED on August 26, 2013.

\s\ Sreenivasa Rao Dandamudi_

SREENIVASA RAO DANDAMUDI

Commissioner

²Statutory references, unless otherwise noted, are to RSMo 2000.

³Oberreiter v. Fullbright Trucking, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000).

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